IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 21.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

Writ Petition No.5887 of 1996

R.Desikan ... Petitioner

vs.

1. State of Tamilnadu,
represented by
Secretary to Government,
Rural Development Department,
Fort St. George, Madras-600 009.

2. The Director of Rural
Development,
Madras-600 015.

3. J. Jayalalitha

4. T.M.Selvaganapathy

5. S.Narayanan

6. Mr. Sathyamurthy

7. B.P.L.India Ltd,
represented by its
Managing Director, Madras.

8. Solidaire India Ltd.,
represented by its
Managing Director, Madras.

9. Uptron India Ltd,
represented by its
Managing Director,
Madras.

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10. Videocon International Ltd.,
represented by its
Managing Director, Madras.

11. Keltron,
represented by its
Managing Director, Madras.

(W.P. dismissed as against
R-4, R-6 and R-7 to R-11,
vide Orders dated 11.06.1996
and 08.01.2001) ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a writ of certiorarified mandamus calling for the records relating to the proceedings of the first respondent in GO.Ms. No. 209 Rural Development (PR) Department dated 13.12.1995 and the proceedings of the 2nd respondent in No. 56597/95/RCP1 dated 15.12.1995 and proceedings No. 87477/95/Fin II-I dated 28.12.1995 quash the same and direct the respondents 4 to 11 to refund the sum of Rs.7158.79 lakhs to the Government of Tamil nadu for being paid to the panchayats and panchayat Union funds from where the money was directed.

For Petitioner : Mr.V.Selvaraj

For State : Mrs.D.Geetha,
Addl. Government Pleader.

For R-5 : Mr.S.A.Rajan

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O R D E R

P. Sathasivam, J.

One R.Desikan, who is said to be the Chairman of Federation of Consumer Organisations of Tamil Nadu, filed this Public Interest Litigation, seeking to quash the proceedings of the Government of Tamil Nadu in GO.Ms.No.209, Rural Development (PR) Department, dated 13.12.1995, and the proceedings of the Director of Rural Development, dated 15.12.1995 and 28.12.1995; and direct respondents 4 to 11 to refund the sum of Rs.7158.79 lakhs to the Government of Tamilnadu, which has been diverted from the Panchayats and Panchayat Union funds.

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2. Heard Mr.V.Selvaraj, learned counsel for the petitioner; Mrs.D.Geetha, learned Additional Government Pleader for the State; and Mr.S.A.Rajan, learned counsel for the 5th respondent.

3. In view of the points raised in this Writ Petition, it is unnecessary to traverse into the factual details as stated in the affidavit.

4. Learned counsel for the petitioner submitted that the Government is not justified in diverting the funds of the Panchayats and Panchayat Unions for other than welfare measures. According to him, it is opposed to public policy and, in any event, no such power is provided either under the Constitution of India or the Tamil Nadu Panchayats Act.

5. On going through the relevant provisions and the object and reasons as stated in the impugned Government Order, viz., G.O.Ms.No.209, dated 13.12.1995, we are unable to accept the above contentions for the following reasons.

6. Article 243-G of the Constitution of India speaks about the powers, authority and responsibilities of Panchayats; and the same is extracted here-under,

> " 243-G.Powers, authority and responsibilities of Panchayats.-- Subject to the provisions of the Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats, at the appropriate level, subject to such conditions as may be specified therein, with respect to--
>
> (a) the preparation of plans for economic development and social justice;
>
> (b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule."

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7. It is not in dispute that, as per the above provision, it is the State Government, which owes the responsibility in respect of Panchayats and it is for them to make necessary laws/provisions enabling the Panchayats to function as Institutions of self-government. The said provision also enables the State Government to implement various schemes for economic development of the people.

8. Chapter-IX of the Tamil Nadu Panchayats Act, 1994, refers to Taxation and Finance and the relevant provisions are Sections-167, 171, 172, 172-A, 175, 185, 187, 190 and 191. Amongst those provisions, Section-191 is relevant, which deals with expenditure from Village Panchayat Fund and Panchayat Union Fund, and it reads as under:-

> " 191. Expenditure from Village Panchayat Fund and Panchayat Union Fund.-- (1) The purposes to which the funds of the panchayat union council or of the village panchayat may be applied include all objects expressly declared obligatory or discretionary by this Act or any rules made thereunder or by any other laws or rules and the funds shall be applicable thereto within the panchayat development block or the panchayat village, as the case may be, subject to such rules or special orders as the Government may prescribe or issue and shall, subject as aforesaid be applicable to such purposes outside the panchayat development block or panchayat village if the expenditure is authorized by this Act or specially sanctioned by the Inspector.
>
> (2) It shall be the duty of every panchayat union council and village panchayat to provide for the payment of--
>
> (a) any amount falling due on any loans contracted by it;
>
> (b) the salaries and allowances and the pensions, pensionary contributions and provident fund contributions of its officers and servants;
>
> (c) sums due under any decree or order of a court; and
>
> (d) any other expenses rendered obligatory by or under this Act or any other law.
>
> (3) A panchayat union council or village panchayat may, with the sanction of the Government, contribute to any fund for the defence of India.

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(4) A panchayat union council or village panchayat may, with the sanction of the Inspector also--

(a) contribute towards the expenses of any public exhibition, ceremony or entertainment in the panchayat development block or panchayat village;

(b) contribute to any charitable fund, or to the funds of any institution for the relief of the poor or the treatment of disease or infirmity or the reception of in-disposed or infirm persons or the investigation of the causes of disease; and

(c) defray any other extraordinary charges."

9. It is not in dispute that the above provisions enable the State Government to prescribe special Rules/orders regarding welfare measures for the panchayat or the Panchayat Union either from the funds of the Panchayat or Panchayat Union or from the other funds available.

10. The preamble of the impugned G.O. makes it clear that in order to provide necessary information to the villagers, particularly in the field of education and for the welfare of women and children, installation of more Television Sets in the Panchayats and Panchayat Unions is paramount. Paragraph No.8 of the impugned G.O. highlights the proposal of the Director of Rural Development that part of the total amount required for the purchase of the T.V. Sets may be met from the excess funds available with the Panchayats and Panchayat Unions. It also shows that the Government is not taking the entire funds available with the Panchayats and Panchayat Unions, on the other hand, it authorised the Director of Rural Development to take only a portion from that funds; and substantial amounts have been diverted from other departments for the benefit of the villagers in the Panchayats and Panchayat unions. In such circumstances, in the light of the objects and reasons enumerated in the impugned Government Order itself and considering the enabling provisions in the Tamil Nadu Panchayats Act, we are unable to accept the argument of the learned counsel for the petitioner. On the other hand, we are satisfied that the Government have not violated any of the provisions and, in fact, the steps taken to provide more T.V. Sets to the Panchayats and Panchayat Unions are laudable as the same will be beneficial to the rural public, who have no easy access to innovative resources. In such circumstances, we do not find any merit in the Writ Petition.

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11. Writ Petition fails and the same is dismissed. No costs.

JI.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government,
Rural Development Department,
Fort St. George, Madras-600 009.

2. The Director of Rural Development,
Madras-600 015.

3. Ms. J. Jayalalitha
Ex-Chief Minister of Tamil Nadu,
Poes Garden, Madras 86.

4. Mr. T.M.Selvaganapathy
Ex- Minister for Local Administation
Fort St George, Madras.

5. Mr. S.Narayanan
the Secretary to Government
Rural Development Department
Fort St George, Madras 9.

6. Mr. M. Sathyamurthy
Director of Rural Development
Madras 15.

+ 1 cc to Government Pleader SR No. 44404
+ 1 cc to Mr. S.A. Rajan, Advocate SR No. 42813

TEJ(CO)
SR/6.10.2006

Order
in
WP No.5887 of 1996

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